REMARKS

I. Introduction

Applicants express appreciation for Supervisory Patent Examiner Niebling's courtesy and professionalism in conducting a telephonic interview on August 9, 2004. The Applicants also express appreciation for Examiner Niebling's agreement that the next Office Action will issue as "Non-Final."

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art references.

II. The Rejection Of The Claims Under 35 U.S.C. § 103

Claims 8, 10 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Beaumont (Conference Article presented on July 1999). Applicants respectfully traverse this rejection for at least the following reasons.

As discussed in the previous response filed on June 1, 2004, Applicants respectfully submit that the pending application, entitled to a filing date of October 20, 2000, precedes the effective filing date of U.S. Pub. No. 2002/015952 A1 to Beaumont. Accordingly, the Beaumont reference does not qualify as prior art relative to the subject application.

More specifically, U.S. Pub. No. 2002/015952 A1 to Beaumont, published on October 24, 2002, has a U.S. filing date of September 21, 2001. Thus, the earliest date under which Beaumont could be considered prior art under 35 U.S.C. § 103(a) is September 21, 2001. Because the present application has a filing date of October 20, 2000 and a priority date of October 21, 1999, Beaumont is not prior art to the instant application.

The only *bona fide* prior art reference cited by the Examiner, the conference article titled "A two-step method for epitaxial lateral overgrowth of GaN" and printed in July, 1999 does not disclose or suggest the claimed subject matter nor does it provide support for the subject matter set forth in the pending rejection.

Specifically, the Examiner asserts that the conference article discloses "GaN triangular stripes as seeds by selective epitaxy at low temperature by OMVPE (low pressure technique) and then increasing the temperature by HVPE (high pressure technique) to form continuous layer through coalescence to reduce the defect density." However, Applicants respectfully submit that the foregoing disclosure is not supported by the conference article in the manner set forth in the pending rejection. The abstract of the conference article merely discloses a first step for obtaining GaN stripes with a triangular cross section and a second step for using the GaN stripes as seeds for epitaxial lateral overgrowth. The conference article to Beaumont does not expressly disclose forming plural seed crystals on a substrate, selectively growing a first nitride semiconductor layer from said plural seed crystals under a first growth ambient pressure, and growing a second nitride semiconductor layer. Therefore, at a minimum, the conference article to Beaumont does not disclose these elements of the pending claims.

Thus, as each and every limitation must be either disclosed or suggested by the cited prior art in order to establish a prima facie case of obviousness (see, **M.P.E.P. § 2143.03**), and Beaumont or Nakamura, taken alone or in combination, fails to do so, it is respectfully submitted that claim 1 is patentably distinct over the cited prior art.

Furthermore, the Examiner asserts in the pending Office Action that the conference article to Beaumont is only in abstract version, and that the publication W099/20816 cited in the

Office Action dated March 16, 2004, and FR 2769924 cited in the pending Office Action support the subject matter disclosed in the conference article.

However, Applicants respectfully submit that neither of the two references is relied upon in the pending rejection, nor has the Examiner addressed or identified where in the publication of W099/20816 or FR 2769924 is the claimed subject matter recited by claim 8 disclosed or suggested. Thus, neither W099/20816 nor FR 2769924 can be utilized as the basis for the rejection to claim 8 within the meaning of 35 U.S.C. §103. If the Examiner continues to rely on the foregoing cited prior art, translation of the publication is respectfully requested.

III. All Dependent Claims Are Allowable Because The Independent Claims From Which They Depend Are Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co., 819 F.2d at 1100, 1108 (Fed. Cir. 1987).* Accordingly, as claim 8 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also in condition for allowance.

IV. Conclusion

Accordingly, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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